

## SENATE BILL No. 330

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### DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 13-18-15-2; IC 36-4-3; IC 36-9-22-2.

**Synopsis:** Annexation. Allows a municipality to annex noncontiguous territory occupied by an economic development project. Provides that if the economic development project is not completed within three years after the annexation is effective, jurisdiction of the annexation territory reverts to the county. Provides, with certain exceptions, that when a municipality initiates an annexation, the annexation may not proceed until the municipality files a petition with the court containing the signatures of: (1) at least 51% of the owners of land (that is not exempt from property taxes) in the territory proposed to be annexed; or (2) the owners of more than 60% in assessed valuation of land (that is not exempt from property taxes) in the annexation territory. Provides that, if the court finds that the petition has a sufficient number of signatures, a hearing must be conducted to review the annexation and fiscal plan. Allows a person to intervene as a party at the hearing to review the annexation and fiscal plan if: (1) the person is an owner of property in the territory proposed to be annexed; (2) the person and no other owner of the property have signed the petition filed by the municipality; and (3) the person appeared at the hearing conducted by the municipality on the annexation ordinance or submitted a remonstrance or other document into the record of the hearing. Allows landowners who do not reside within an annexation territory to sign a petition requesting annexation under the "supervoluntary" annexation procedures. Eliminates a procedure that requires the court to order an annexation not to take place if certain circumstances are shown. Removes provisions allowing a municipality to obtain waivers of a landowner's right to remonstrate against an annexation. Provides that

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**Effective:** July 1, 2015.

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## Boots, Head

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January 8, 2015, read first time and referred to Committee on Local Government.

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in all circumstances an annexation becomes effective when the ordinance or a final unappealable judgment is filed by the municipal clerk. Repeals provisions concerning: (1) waivers of remonstrance against an annexation; (2) filing a remonstrance against an annexation; and (3) settlement agreements in lieu of annexation. Prohibits a municipality from amending the fiscal plan after the date that the municipality files the annexation petition with the court, unless the persons signing the petition consent to the amendment.



Introduced

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 330

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1       SECTION 1. IC 13-18-15-2 IS REPEALED [EFFECTIVE JULY 1,  
2       2015]. Sec. 2: (a) The persons involved shall negotiate the terms for  
3       connection and service under this chapter.  
4       (b) If service is ordered under this chapter, a receiver of that service  
5       that is located in an unincorporated area may grant a waiver to a  
6       municipality providing the service. A waiver under this section:  
7       (1) must waive the receiver's right of remonstrance against  
8       annexation of the areas in which the service is to be provided; and  
9       (2) may be one (1) of the terms for connection and service  
10      described in subsection (a).  
11      (c) The waiver, if granted:  
12      (1) shall be noted on the deed of each property affected and  
13      recorded as provided by law; and  
14      (2) is considered a covenant running with the land.



SECTION 2. IC 36-4-3-3.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3.1. (a) This section does not apply to an annexation under section 4(a)(2), 4(a)(3), 4(b), 4(h), or 4.1 of this chapter.

(b) A municipality shall develop and adopt a written fiscal plan and establish a definite policy by resolution of the legislative body that meets the requirements set forth in section 13 of this chapter.

(c) Except as provided in subsection (d), the municipality shall establish and adopt the written fiscal plan before mailing the notification to landowners in the territory proposed to be annexed under section 2.2 of this chapter.

(d) In an annexation under section 5, ~~or 5.1~~, **or 5.5** of this chapter, the municipality shall establish and adopt the written fiscal plan before adopting the annexation ordinance.

SECTION 3. IC 36-4-3-4.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4.2. (a) **As used in this section, "economic development project" means any project that:**

**(1) a municipality determines will:**

- (A) promote significant opportunities for the gainful employment of its citizens;**
- (B) attract a major new business enterprise to the unit; or**
- (C) retain or expand a significant business enterprise within the unit; and**

**(2) involves expenditures for any of the following:**

- (A) Land acquisition, interests in land, site improvements, infrastructure improvements, buildings, or structures.**
- (B) Rehabilitation, renovation, and enlargement of buildings and structures.**
- (C) Machinery, equipment, furnishings, or facilities.**
- (D) Administrative expenses associated with an economic development project, including contract payments to a nonprofit corporation whose primary corporate purpose is to assist government in planning and implementing economic development projects.**
- (E) Operating expenses of a governmental entity that plans or implements economic development projects.**
- (F) Substance removal or remedial action.**

**(b) A municipality may annex under section 5.1 or 5.5 of this chapter noncontiguous territory that:**

- (1) is occupied by an economic development project; and**
- (2) has its entire area not more than one (1) mile from the**



municipality's boundary.

(c) The annexation territory may not be considered a part of the municipality for purposes of annexing additional territory. The annexation ordinance and fiscal plan must include the basis for the municipality's determination that the project is an economic development project.

(d) If the economic development project that occupies territory that is annexed in accordance with this section is not completed within three (3) years after the date the annexation is effective, the annexation territory reverts to the county. The clerk of the municipality shall notify the offices required to receive notice of a disannexation under section 19 of this chapter when the territory reverts to the jurisdiction of the county.

SECTION 4. IC 36-4-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. (a) **A municipality may not promote or collect signatures on an annexation petition filed under this section.**

~~(a)~~ (b) If the owners of land located outside of but contiguous to a municipality want to have territory containing that land annexed to the municipality, they may file with the legislative body of the municipality a petition:

(1) signed by at least:

(A) fifty-one percent (51%) of the owners of land:

(i) in the territory sought to be annexed; **and**

(ii) **that is not exempt from property taxes under IC 6-1.1-10 or any other state law; or**

(B) the owners of ~~seventy-five~~ **sixty** percent (~~75%~~) (**60%**) of the total assessed value of the land for property tax purposes **that is not exempt from property taxes under IC 6-1.1-10 or any other state law; and**

(2) requesting an ordinance annexing the area described in the petition.

~~(b)~~ (c) The petition circulated by the landowners must include on each page where signatures are affixed a heading that is substantially similar to the following:

"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."

~~(c)~~ (d) Except as provided in section 5.1 of this chapter, if the legislative body fails to pass the ordinance within one hundred fifty (150) days after the date of filing of a petition under subsection ~~(a)~~, (b), the petitioners may file a duplicate copy of the petition in the circuit or superior court of a county in which the territory is located, and shall



1 include a written statement of why the annexation should take place.  
 2 Notice of the proceedings, in the form of a summons, shall be served  
 3 on the municipality named in the petition. The municipality is the  
 4 defendant in the cause and shall appear and answer.

5 ~~(d)~~ (e) The court shall hear and determine the petition without a  
 6 jury, and shall order the proposed annexation to take place only if the  
 7 evidence introduced by the parties establishes that:

- 8 (1) essential municipal services and facilities are not available to
- 9 the residents of the territory sought to be annexed;
- 10 (2) the municipality is physically and financially able to provide
- 11 municipal services to the territory sought to be annexed;
- 12 (3) the population density of the territory sought to be annexed is
- 13 at least three (3) persons per acre; and
- 14 (4) the territory sought to be annexed is contiguous to the
- 15 municipality.

16 If the evidence does not establish all four (4) of the preceding factors,  
 17 the court shall deny the petition and dismiss the proceeding.

18 ~~(e)~~ (f) This subsection does not apply to a town that has abolished  
 19 town legislative body districts under IC 36-5-2-4.1. An ordinance  
 20 adopted under this section must assign the territory annexed by the  
 21 ordinance to at least one (1) municipal legislative body district.

22 SECTION 5. IC 36-4-3-5.1 IS AMENDED TO READ AS  
 23 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5.1. (a) ~~This section~~  
 24 ~~applies to an annexation in which~~ Owners of land located outside but  
 25 contiguous to a municipality **may** file a petition with the legislative  
 26 body of the municipality:

- 27 (1) requesting an ordinance annexing the area described in the
- 28 petition; and
- 29 (2) signed by one hundred percent (100%) of the ~~landowners that~~  
 30 **reside owners of land:**

31 **(A) located** within the territory that is proposed to be annexed;  
 32 **and**

33 **(B) not exempt from property taxes under IC 6-1.1-10 or**  
 34 **any other state law.**

35 (b) Sections 2.1 and 2.2 of this chapter do not apply to an  
 36 annexation under this section.

37 (c) The petition circulated by the landowners must include on each  
 38 page where signatures are affixed a heading that is substantially similar  
 39 to the following:

40 "PETITION FOR ANNEXATION INTO THE (insert whether city  
 41 or town) OF (insert name of city or town).".

42 (d) The municipality may:



(1) adopt an annexation ordinance annexing the territory; and  
 (2) adopt a fiscal plan and establish a definite policy by resolution  
 of the legislative body;  
 after the legislative body has held a public hearing on the proposed  
 annexation.

(e) The municipality may introduce and hold the public hearing on  
 the annexation ordinance not later than thirty (30) days after the  
 petition is filed with the legislative body. Notice of the public hearing  
 may be published one (1) time in accordance with IC 5-3-1 at least  
 twenty (20) days before the hearing. All interested parties must have  
 the opportunity to testify at the hearing as to the proposed annexation.

(f) The municipality may adopt the annexation ordinance not earlier  
 than fourteen (14) days after the public hearing under subsection (e).

(g) A landowner may withdraw the landowner's signature from the  
 petition not more than thirteen (13) days after the municipality adopts  
 the fiscal plan by providing written notice to the office of the clerk of  
 the municipality.

**(h) If a landowner withdraws the landowner's signature, the  
 following occurs:**

**(1) Except as provided in subdivision (2), the petition shall  
 automatically be considered a voluntary petition that is filed with  
 the legislative body under section 5 of this chapter, fourteen (14)  
 days after the date the fiscal plan is adopted. All provisions  
 applicable to a petition initiated under section 5 of this chapter  
 apply to the petition.**

**(2) If the petition is for annexation of an economic  
 development project under section 4.2 of this chapter, the  
 annexation ordinance is voided. Section 15 of this chapter  
 does not prevent the municipality from initiating an  
 annexation of the territory under section 5.5 of this chapter.**

~~(h)~~ **(i)** If the municipality does not adopt an annexation ordinance  
 within sixty (60) days after the landowners file the petition with the  
 legislative body, the landowners may file a duplicate petition with the  
 circuit or superior court of a county in which the territory is located.  
 The court shall determine whether the annexation shall take place as  
 set forth in section 5 of this chapter.

~~(i) A remonstrance under section 11 of this chapter may not be filed.  
 However, an appeal under section 15.5 of this chapter may be filed.~~

(j) In the absence of an appeal under section 15.5 of this chapter, an  
 annexation ordinance adopted under this section takes effect not less  
 than thirty (30) days after the adoption of the ordinance and upon the  
 filing and recording of the ordinance under section 22 of this chapter.



SECTION 6. IC 36-4-3-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 5.5. (a) This section does not apply to an annexation under section 5 or 5.1 of this chapter.**

**(b) This section applies to an annexation ordinance adopted after June 30, 2015.**

**(c) After a municipality meets the requirements under section 2.1 and 2.2 of this chapter, and adopts an annexation ordinance under section 3 or 4 of this chapter, in order for the annexation to proceed, the municipality must file a written petition under subsection (f), signed by owners of land in the territory proposed to be annexed who are in favor of the annexation. The petition must be signed by:**

**(1) at least fifty-one percent (51%) of the owners of land:**

**(A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**

**(B) in the territory proposed to be annexed; or**

**(2) the owners of more than sixty percent (60%) in assessed valuation of land:**

**(A) not exempt from property taxes under IC 6-1.1-10 or any other state law; and**

**(B) in the territory proposed to be annexed.**

**(d) The petition circulated by the municipality must include on each page where signatures are affixed a heading that is substantially similar to the following:**

**"PETITION FOR ANNEXATION INTO THE (insert whether city or town) OF (insert name of city or town)."**

**(e) A landowner may withdraw the landowner's signature from the petition not more than ten (10) days after the municipality adopts the annexation ordinance by providing written notice to the office of the clerk of the municipality. A landowner who withdraws the landowner's signature from the petition is considered not to have signed the petition for purposes of subsection (h)(2).**

**(f) The municipality must file the petition with the circuit or superior court of the county where the municipality is located not later than ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter. The petition must be accompanied by:**

**(1) a copy of the ordinance; and**

**(2) the names and addresses of all persons who meet the requirements of subsection (h).**

**(g) On receipt of the petition, the court shall determine whether**





the petition has the necessary signatures. In determining the total number of landowners of the territory proposed to be annexed and whether signers of the petition are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section. If the court determines that the municipality's petition is sufficient, the court shall fix a time, not later than sixty (60) days after its determination, for a hearing on the petition.

(h) A person may intervene as a party at the hearing described in subsection (g) if the person:

- (1) is an owner of property in the territory proposed to be annexed;
- (2) did not sign the petition and no other owner of the property signed the petition filed by the municipality; and
- (3) appeared in person or submitted a remonstrance or other document objecting to the annexation into the record of the hearing under section 2.1 of this chapter.

The court shall give a person described in this subsection notice of the hearing on the petition by certified mail.

SECTION 7. IC 36-4-3-7, AS AMENDED BY P.L.113-2010, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. (a) After an annexation ordinance is adopted, under section 3; 4; 5; or 5.1 of this chapter, it the ordinance must be published in the manner prescribed by IC 5-3-1. Except as provided in subsection (b); (c); or (f); in the absence of remonstrance and appeal under section 11 or 15.5 of this chapter, the ordinance takes effect at least ninety (90) days after its publication and upon the filing required by section 22(a) of this chapter. The ordinance takes effect as follows:

- (1) This subdivision applies to an annexation under section 5 of this chapter. Except as provided in subsection (b) or (d), in the absence of an appeal under section 15.5 of this chapter, the annexation ordinance takes effect at least ninety (90) days after its publication and upon filing under section 22(a) of this chapter.
- (2) This subdivision applies to an annexation under section 5.1 of this chapter. Except as provided in subsection (b) or (d), in the absence of an appeal under section 15.5 of this chapter, the ordinance takes effect not less than thirty (30) days after the adoption of the ordinance and upon the filing under



section 22(a) of this chapter.

(3) This subdivision applies to an annexation under section 5.5 of this chapter. Except as provided in subsection (b) or (d), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

(4) This subdivision applies to an annexation under section 7.1 of this chapter. Notwithstanding subsection (b), if the court's judgment under section 12 of this chapter, including any appeals under section 15.5 of this chapter, is in favor of the annexation, the annexation is effective upon the filing under section 22(a) of this chapter.

(b) An ordinance described in subsection (d) or adopted under section 3, 4, 5, or 5.1 of this chapter **annexation** may not take effect during the year preceding a year in which a federal decennial census is conducted. An ordinance that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

(c) Subsections (d) and (e) apply to fire protection districts that are established after June 14, 1987.

(d) Except as provided in subsection (b), whenever a municipality annexes territory, all or part of which lies within a fire protection district (IC 36-8-11), the annexation ordinance (in the absence of ~~remonstrance and a hearing or an~~ appeal under section ~~11~~ 12 or 15.5 of this chapter) takes effect the second January 1 that follows the date the ordinance is adopted and upon the filing required by section 22(a) of this chapter. The municipality shall:

(1) provide fire protection to that territory beginning ~~on~~ the date the ordinance is effective; and

(2) send written notice to the fire protection district of the date the municipality will begin to provide fire protection to the annexed territory within ten (10) days of the date the ordinance is adopted.

(e) If the fire protection district from which a municipality annexes territory under subsection (d) is indebted or has outstanding unpaid bonds or other obligations at the time the annexation is effective, the municipality is liable for and shall pay that indebtedness in the same ratio as the assessed valuation of the property in the annexed territory (that is part of the fire protection district) bears to the assessed valuation of all property in the fire protection district, as shown by the most recent assessment for taxation before the annexation, unless the



assessed property within the municipality is already liable for the indebtedness. The annexing municipality shall pay its indebtedness under this section to the board of fire trustees. If the indebtedness consists of outstanding unpaid bonds or notes of the fire protection district, the payments to the board of fire trustees shall be made as the principal or interest on the bonds or notes becomes due.

(f) This subsection applies to an annexation initiated by property owners under section 5.1 of this chapter in which all property owners within the area to be annexed petition the municipality to be annexed. Subject to subsections (b) and (d); and in the absence of an appeal under section 15.5 of this chapter, an annexation ordinance takes effect at least thirty (30) days after its publication and upon the filing required by section 22(a) of this chapter.

SECTION 8. IC 36-4-3-7.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7.1. Notwithstanding section 7(b) of this chapter, if an ordinance is adopted under section 4 of this chapter **and a final unappealable judgment is entered in favor of the annexation**, the annexation takes effect immediately upon the expiration of the sixty (60) day remonstrance and appeal period under section 11 or 15.5 of this chapter and after the publication, filing and recording required by section 22(a) of this chapter if all of the following conditions are met:

- (1) The annexed territory has no population.
- (2) Ninety percent (90%) of the total assessed value of the land for property tax purposes has one (1) owner.
- (3) The annexation is required to fulfill an economic development incentive package and to retain an industry through various local incentives, including urban enterprise zone benefits.

SECTION 9. IC 36-4-3-11 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 11. (a) Except as provided in section 5.1(i) of this chapter and subsections (d) and (e), whenever territory is annexed by a municipality under this chapter, the annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by:

- (1) at least sixty-five percent (65%) of the owners of land in the annexed territory; or
- (2) the owners of more than seventy-five percent (75%) in assessed valuation of the land in the annexed territory.

The remonstrance must be filed within ninety (90) days after the publication of the annexation ordinance under section 7 of this chapter; must be accompanied by a copy of that ordinance; and must state the reason why the annexation should not take place.



(b) On receipt of the remonstrance, the court shall determine whether the remonstrance has the necessary signatures. In determining the total number of landowners of the annexed territory and whether signers of the remonstrance are landowners, the names appearing on the tax duplicate for that territory constitute prima facie evidence of ownership. Only one (1) person having an interest in each single property, as evidenced by the tax duplicate, is considered a landowner for purposes of this section.

(c) If the court determines that the remonstrance is sufficient, it shall fix a time, within sixty (60) days of its determination, for a hearing on the remonstrance. Notice of the proceedings, in the form of a summons, shall be served on the annexing municipality. The municipality is the defendant in the cause and shall appear and answer.

(d) If an annexation is initiated by property owners under section 5-1 of this chapter and all property owners within the area to be annexed petition the municipality to be annexed, a remonstrance to the annexation may not be filed under this section.

(e) This subsection applies if:

(1) the territory to be annexed consists of not more than one hundred (100) parcels; and

(2) eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality.

An annexation may be appealed by filing with the circuit or superior court of a county in which the annexed territory is located a written remonstrance signed by at least seventy-five percent (75%) of the owners of land in the annexed territory as determined under subsection (b).

SECTION 10. IC 36-4-3-11.5 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 11-5: A landowner in an unincorporated area is not required to grant a municipality a waiver against remonstrance as a condition of connection to a sewer or water service if all of the following conditions apply:

(1) The landowner is required to connect to the sewer or water service because a person other than the landowner has polluted or contaminated the area.

(2) A person other than the landowner or the municipality has paid the cost of connection to the service.

SECTION 11. IC 36-4-3-12, AS AMENDED BY P.L.113-2010, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 12. (a) The circuit or superior court shall:

(1) on the date fixed under section 11-5.5 of this chapter, hear and



determine the ~~remonstrance~~ **petition** without a jury; and  
 (2) without delay, enter judgment on the question of the  
 annexation according to the evidence that either party may  
 introduce.

(b) **This subsection does not apply to an annexation under section 7.1 of this chapter.** If the court enters judgment in favor of the annexation, the annexation may not take effect during the year preceding the year in which a federal decennial census is conducted. An annexation that would otherwise take effect during the year preceding a year in which a federal decennial census is conducted takes effect January 1 of the year in which a federal decennial census is conducted.

SECTION 12. IC 36-4-3-13, AS AMENDED BY P.L.119-2012, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) ~~Except as provided in subsections (c) and (g),~~ At the hearing under section 12 of this chapter, the court shall order a proposed annexation to take place if the following requirements are met:

(1) The requirements of either subsection (b) or (c).

(2) The requirements of subsection (d).

(b) The requirements of this subsection are met if the evidence establishes the following:

(1) That the territory sought to be annexed is contiguous to the municipality.

(2) One (1) of the following:

(A) The resident population density of the territory sought to be annexed is at least three (3) persons per acre.

(B) Sixty percent (60%) of the territory is subdivided.

(C) The territory is zoned for commercial, business, or industrial uses.

(c) The requirements of this subsection are met if the evidence establishes **one (1) of** the following:

(1) That the territory sought to be annexed:

**(A)** is contiguous to the municipality as required by section 1.5 of this chapter, except that at least one-fourth (1/4), instead of one-eighth (1/8), of the aggregate external boundaries of the territory sought to be annexed must coincide with the boundaries of the municipality; **and**

~~(2) That the territory sought to be annexed~~ **(B)** is needed and can be used by the municipality for its development in the reasonably near future.

**(2) That the territory sought to be annexed is occupied by an**



**economic development project that meets the requirements of section 4.2 of this chapter.**

(d) The requirements of this subsection are met if the evidence establishes that the municipality has developed and adopted a written fiscal plan and has established a definite policy, by resolution of the legislative body as set forth in section 3.1 of this chapter. The fiscal plan must show the following:

(1) The cost estimates of planned services to be furnished to the territory to be annexed. The plan must present itemized estimated costs for each municipal department or agency.

(2) The method or methods of financing the planned services. The plan must explain how specific and detailed expenses will be funded and must indicate the taxes, grants, and other funding to be used.

(3) The plan for the organization and extension of services. The plan must detail the specific services that will be provided and the dates the services will begin.

(4) That planned services of a noncapital nature, including police protection, fire protection, street and road maintenance, and other noncapital services normally provided within the corporate boundaries, will be provided to the annexed territory within one (1) year after the effective date of annexation and that they will be provided in a manner equivalent in standard and scope to those noncapital services provided to areas within the corporate boundaries regardless of similar topography, patterns of land use, and population density.

(5) That services of a capital improvement nature, including street construction, street lighting, sewer facilities, water facilities, and stormwater drainage facilities, will be provided to the annexed territory within three (3) years after the effective date of the annexation in the same manner as those services are provided to areas within the corporate boundaries, regardless of similar topography, patterns of land use, and population density, and in a manner consistent with federal, state, and local laws, procedures, and planning criteria.

~~(e) At the hearing under section 12 of this chapter, the court shall do the following:~~

~~(1) Consider evidence on the conditions listed in subdivision (2);~~

~~(2) Order a proposed annexation not to take place if the court finds that all of the conditions set forth in clauses (A) through (D) and, if applicable, clause (E) exist in the territory proposed to be annexed;~~



(A) The following services are adequately furnished by a provider other than the municipality seeking the annexation:

(i) Police and fire protection:

(ii) Street and road maintenance:

(B) The annexation will have a significant financial impact on the residents or owners of land:

(C) The annexation is not in the best interests of the owners of land in the territory proposed to be annexed as set forth in subsection (f):

(D) One (1) of the following opposes the annexation:

(i) At least sixty-five percent (65%) of the owners of land in the territory proposed to be annexed:

(ii) The owners of more than seventy-five percent (75%) in assessed valuation of the land in the territory proposed to be annexed:

Evidence of opposition may be expressed by any owner of land in the territory proposed to be annexed:

(E) This clause applies only to an annexation in which eighty percent (80%) of the boundary of the territory proposed to be annexed is contiguous to the municipality and the territory consists of not more than one hundred (100) parcels: At least seventy-five percent (75%) of the owners of land in the territory proposed to be annexed oppose the annexation as determined under section 11(b) of this chapter:

(f) The municipality under subsection (e)(2)(C) bears the burden of proving that the annexation is in the best interests of the owners of land in the territory proposed to be annexed: In determining this issue, the court may consider whether the municipality has extended sewer or water services to the entire territory to be annexed:

(1) within the three (3) years preceding the date of the introduction of the annexation ordinance; or

(2) under a contract in lieu of annexation entered into under IC 36-4-3-21:

The court may not consider the provision of water services as a result of an order by the Indiana utility regulatory commission to constitute the provision of water services to the territory to be annexed:

(g) This subsection applies only to cities located in a county having a population of more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000): However, this subsection does not apply if on April 1, 1993, the entire boundary of the territory that is proposed to be annexed was contiguous to territory that was within the boundaries of one (1) or more municipalities: At the



1 hearing under section 12 of this chapter, the court shall do the  
2 following:

3 (1) Consider evidence on the conditions listed in subdivision (2):

4 (2) Order a proposed annexation not to take place if the court  
5 finds that all of the following conditions exist in the territory  
6 proposed to be annexed:

7 (A) The following services are adequately furnished by a  
8 provider other than the municipality seeking the annexation:

9 (i) Police and fire protection:

10 (ii) Street and road maintenance:

11 (B) The annexation will have a significant financial impact on  
12 the residents or owners of land:

13 (C) One (1) of the following opposes the annexation:

14 (i) A majority of the owners of land in the territory proposed  
15 to be annexed:

16 (ii) The owners of more than seventy-five percent (75%) in  
17 assessed valuation of the land in the territory proposed to be  
18 annexed:

19 Evidence of opposition may be expressed by any owner of land  
20 in the territory proposed to be annexed:

21 (h) (e) The most recent:

22 (1) federal decennial census;

23 (2) federal special census;

24 (3) special tabulation; or

25 (4) corrected population count;

26 shall be used as evidence of resident population density for purposes  
27 of subsection (b)(2)(A), but this evidence may be rebutted by other  
28 evidence of population density.

29 **(f) A municipality may not amend the fiscal plan after the date**  
30 **that the municipality files the annexation petition with the court**  
31 **under section 5.5 of this chapter, unless amendment of the fiscal**  
32 **plan is consented to by the individuals signing the petition.**

33 SECTION 13. IC 36-4-3-14 IS AMENDED TO READ AS  
34 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. In a hearing under  
35 section 12 of this chapter, the laws providing for change of venue from  
36 the county do not apply, but changes of venue from the judge may be  
37 had as in other cases. Costs follow judgment. Pending the  
38 remonstrance, and during the time within which the remonstrance may  
39 be taken, entry of a final unappealable judgment, the territory sought  
40 to be annexed is not considered a part of the municipality.

41 SECTION 14. IC 36-4-3-15 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) The court's





1 judgment under section 12 or 15.5 of this chapter must specify the  
 2 annexation ordinance. ~~on which the remonstrance is based~~. The clerk  
 3 of the court shall deliver a certified copy of the **final unappealable**  
 4 judgment to the clerk of the municipality. The clerk of the municipality  
 5 shall:

6 (1) record the judgment in the clerk's ordinance record; and

7 (2) make a cross-reference to the record of the judgment on the  
 8 margin of the record of the annexation ordinance.

9 (b) If a judgment under section 12 or 15.5 of this chapter is adverse  
 10 to annexation, the municipality may not make further attempts to annex  
 11 the territory or any part of the territory during the four (4) years after  
 12 the later of:

13 (1) the judgment of the circuit or superior court; or

14 (2) the date of the final disposition of all appeals to a higher court;  
 15 unless the annexation is petitioned for under section 5 or 5.1 of this  
 16 chapter.

17 (c) This subsection applies if a municipality repeals the annexation  
 18 ordinance:

19 (1) less than sixty-one (61) days after the publication of the  
 20 ordinance under section 7(a) of this chapter; and

21 (2) before the hearing commences ~~on the remonstrance~~ under  
 22 section ~~H(c)~~ **12** of this chapter.

23 A municipality may not make further attempts to annex the territory or  
 24 any part of the territory during the twelve (12) months after the date the  
 25 municipality repeals the annexation ordinance. This subsection does  
 26 not prohibit an annexation of the territory or part of the territory that is  
 27 petitioned for under section 5 or 5.1 of this chapter.

28 (d) This subsection applies if a municipality repeals the annexation  
 29 ordinance:

30 (1) at least sixty-one (61) days but not more than one hundred  
 31 twenty (120) days after the publication of the ordinance under  
 32 section 7(a) of this chapter; and

33 (2) before the hearing commences ~~on the remonstrance~~ under  
 34 section ~~H(c)~~ **12** of this chapter.

35 A municipality may not make further attempts to annex the territory or  
 36 any part of the territory during the twenty-four (24) months after the  
 37 date the municipality repeals the annexation ordinance. This subsection  
 38 does not prohibit an annexation of the territory or part of the territory  
 39 that is petitioned for under section 5 or 5.1 of this chapter.

40 (e) This subsection applies if a municipality repeals the annexation  
 41 ordinance:

42 (1) either:



(A) at least one hundred twenty-one (121) days after publication of the ordinance under section 7(a) of this chapter but before the hearing commences ~~on the remonstrance~~ under section ~~11(c)~~ **12** of this chapter; or

(B) after the hearing commences ~~on the remonstrance~~ as set forth in section ~~11(c)~~ **12** of this chapter; and

(2) before the date of the judgment of the circuit or superior court as set forth in subsection (b).

A municipality may not make further attempts to annex the territory or any part of the territory during the forty-two (42) months after the date the municipality repeals the annexation ordinance. This subsection does not prohibit an annexation of the territory or part of the territory that is petitioned for under section 5 or 5.1 of this chapter.

(f) If a judgment under section 12 or 15.5 of this chapter orders the annexation to take place, the annexation is effective when the clerk of the municipality complies with the filing requirement of section 22(a) of this chapter.

SECTION 15. IC 36-4-3-15.3 IS REPEALED [EFFECTIVE JULY 1, 2015]. ~~Sec. 15.3: (a) As used in this section, "prohibition against annexation" means that a municipality may not make further attempts to annex certain territory or any part of that territory.~~

~~(b) As used in this section, "settlement agreement" means a written court approved settlement of a dispute involving annexation under this chapter between a municipality and remonstrators.~~

~~(c) Under a settlement agreement between the annexing municipality and either:~~

~~(1) seventy-five percent (75%) or more of all landowners participating in the remonstrance; or~~

~~(2) the owners of more than seventy-five percent (75%) in assessed valuation of the land owned by all landowners participating in the remonstrance;~~

the parties may mutually agree to a prohibition against annexation of all or part of the territory by the municipality for a period not to exceed twenty (20) years. The settlement agreement may address issues and bind the parties to matters relating to the provision by a municipality of planned services of a noneapital nature and services of a capital improvement nature (as described in section 13(d) of this chapter); in addition to a prohibition against annexation. The settlement agreement is binding upon the successors, heirs, and assigns of the parties to the agreement. However, the settlement agreement may be amended or revised periodically on further agreement between the annexing municipality and landowners who meet the qualifications of subsection



~~(c)(1) or (c)(2):~~

SECTION 16. IC 36-4-3-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The clerk of the municipality shall do the following:

(1) File each annexation ordinance against which ~~a remonstrance~~ or an appeal has not been filed during the period permitted under this chapter or the certified copy of a **final unappealable** judgment ordering an annexation to take place with each of the following:

(A) The county auditor of each county in which the annexed territory is located.

(B) The circuit court clerk of each county in which the annexed territory is located.

(C) If a board of registration exists, the registration board of each county in which the annexed territory is located.

(D) The office of the secretary of state.

(E) The office of census data established by IC 2-5-1.1-12.2.

(2) Record each annexation ordinance adopted under this chapter in the office of the county recorder of each county in which the annexed territory is located.

(b) The copy must be filed and recorded no later than ninety (90) days after:

(1) the expiration of the period permitted for ~~a remonstrance or an~~ appeal; or

(2) the delivery of a certified order under section 15 of this chapter.

(c) Failure to record the annexation ordinance as provided in subsection (a)(2) does not invalidate the ordinance.

(d) The county auditor shall forward a copy of any annexation ordinance filed under this section to the following:

(1) The county highway department of each county in which the lots or lands affected are located.

(2) The county surveyor of each county in which the lots or lands affected are located.

(3) Each plan commission, if any, that lost or gained jurisdiction over the annexed territory.

(4) The sheriff of each county in which the lots or lands affected are located.

(5) The township trustee of each township that lost or gained jurisdiction over the annexed territory.

(6) The office of the secretary of state.

(7) The office of census data established by IC 2-5-1.1-12.2.



(e) The county auditor may require the clerk of the municipality to furnish an adequate number of copies of the annexation ordinance or may charge the clerk a fee for photoreproduction of the ordinance. The county auditor shall notify the office of the secretary of state and the office of census data established by IC 2-5-1.1-12.2 of the date that the annexation ordinance is effective under this chapter.

(f) The county auditor or county surveyor shall, upon determining that an annexation ordinance has become effective under this chapter, indicate the annexation upon the property taxation records maintained in the office of the auditor or the office of the county surveyor.

SECTION 17. IC 36-9-22-2, AS AMENDED BY P.L.243-2013, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) The power of the municipal works board to fix the terms of a contract under this section applies to contracts for the installation of sewage works that have not been finally approved or accepted for full maintenance and operation by the municipality on July 1, 1979.

(b) The works board of a municipality may contract with owners of real property for the construction of sewage works within the municipality or within four (4) miles outside its corporate boundaries in order to provide service for the area in which the real property of the owners is located. The contract must provide, for a period of not to exceed fifteen (15) years, for the payment to the owners and their assigns by any owner of real property who:

(1) did not contribute to the original cost of the sewage works; and

(2) subsequently taps into, uses, or deposits sewage or storm waters in the sewage works or any lateral sewers connected to them;

of a fair pro rata share of the cost of the construction of the sewage works, subject to the rules of the board and notwithstanding any other law relating to the functions of local governmental entities. However, the contract does not apply to any owner of real property who is not a party to the contract unless the contract or (after June 30, 2013) a signed memorandum of the contract has been recorded in the office of the recorder of the county in which the real property of the owner is located before the owner taps into or connects to the sewers and facilities. The board may provide that the fair pro rata share of the cost of construction includes interest at a rate not exceeding the amount of interest allowed on judgments, and the interest shall be computed from the date the sewage works are approved until the date payment is made to the municipality.



(c) The contract must include, as part of the consideration running to the municipality, the release of the right of the parties to the contract and their successors in title to remonstrate against pending or future annexations by the municipality of the area served by the sewage works. Any person tapping into or connecting to the sewage works contracted for is considered to waive the person's rights to remonstrate against the annexation of the area served by the sewage works.

(d) This subsection does not affect any rights or liabilities accrued, or proceedings begun before July 1, 2013. Those rights, liabilities, and proceedings continue and shall be imposed and enforced under prior law as if this subsection had not been enacted. For contracts executed after June 30, 2013, the release of the right to remonstrate is binding on a successor in title to a party to the contract only if the successor in title:

(1) has actual notice of the release; or

(2) has constructive notice of the release because the contract, or a signed memorandum of the contract stating the release, has been recorded in the chain of title of the property.

(e) Subsection (c) does not apply to a landowner if all of the following conditions apply:

(1) The landowner is required to connect to the sewage works because a person other than the landowner has polluted or contaminated the area.

(2) The costs of extension of or connection to the sewage works are paid by a person other than the landowner or the municipality.

(f) Subsection (c) does not apply to a landowner who taps into, connects to, or is required to tap into or connect to the sewage works of a municipality only because the municipality provides wholesale sewage service (as defined in IC 8-1-2-61.7) to another municipality that provides sewage service to the landowner.

